THE HON'BLE SMT. JUSTICE T. MEENA KUMARI

W.P. No. 14241 of 1998

Between:

M. Balakrishna Prasad …petitioner.

And

The Municipal Commissioner,
Nizamabad …respondent.

Date: 5-7-2006.

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI

W.P. Nos. 14241 of 1998

O R D E R:

This writ petition is filed seeking to issue a writ of Mandamus declaring the Notice No. D3/4579/96 dated 28-4-1998 issued by the Municipal Commissioner, Nizamabad as illegal and arbitrary.

Heard the learned counsel for the parties and perused the record.

A scheme called 'Urban Basic Service' was being implemented in sixteen Municipal Towns in five district in Andhra Pradesh from 1986 onwards. Thereafter, the Government of India asked the State Government to implement a new scheme called

‘Urban Basic Service for the Poor’ and the expenditure was to be borne by the Government of India. Nizamabad district was one of the districts selected for implementation of the said scheme and certain posts were created for implementation of the scheme and one of such posts was Assistant Project Officer. In the written examination and oral test conducted by the District Collector as the Chairman of the District Monitoring Cell, UBSP, Nizamabad the petitioner and others were selected and accordingly the they were working. While so, from October 1996 the salary of the petitioner was stopped. The petitioner further states that there was lot of political influence in their functioning and that their original appointment was said to be made under contract but that contract lapsed and they continued to be in service as they have been selected on the basis of written test and appointed accordingly and therefore their appointment is deemed to be a regular appointment. While so, the petitioner states, that a charge memo was given to all of them and thereafter without conducting any enquiry, the District Collector terminated their services for the alleged misconduct Subsequently vide proceedings No. D3/4579/96 dated 20-1-1998 the respondent directed them to remit the misappropriated amount. The petitioner further states that in spite of the fact that they got issued legal notice on 5-5-1998 the respondent is bent upon taking action to recover the amount. The grievance of the petitioner is that the above notice is illegal and arbitrary and that absolutely no determination of

any amount has been made by any authority and the Collector or any authority on certain assumptions or presumptions cannot determine the amount and seek recovery and therefore the impugned notice is liable to be set aside.

During the course of arguments, it is stated by the learned counsel for the petitioner that the petitioner has filed reply to the impugned notice but the same has not been considered. Having regard to the facts and circumstances and the nature of the case this Court is of the opinion that the respondent has to consider the reply, if any, filed by the petitioners and to pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of directing the respondent herein to consider the reply filed by the petitioner and to pass appropriate orders in accordance with law. Till such time, interim order granted by this Court earlier will continue.

T. MEENA KUMARI, J.

Date: 5-7-2006.

MVB.